

CPC Minutes of February 28, 2012

A regular meeting of the City Plan Commission (CPC) was held on Tuesday, February 28, 2012 at 4:45 p.m. in the Department of the Planning and Development (DPD) 1st Floor Meeting Room, 444 Westminster Street, Providence, Rhode Island.

Opening Session

Call to order: Chairman Durkee called the meeting to order at 4:49 p.m.

Members Present: Chairman Stephen Durkee, Andrew Cortes, JoAnn Ryan and Meredyth Church

Members Absent: Ina Anderson and Luis Torrado

Staff Present: Robert Azar and Choyon Manjrekar

Approval of meeting minutes from January 24th, 2012: Ms. Ryan made a motion seconded by Mr. Cortes to approve the minutes. All voted in favor.

DOWNTOWN ZONING

1. An Ordinance in Amendment of Chapter 27 of the Ordinances of the City of Providence Entitled “The City of Providence Zoning Ordinance” Approved June 27, 1994, as Amended, to Change Certain Text in Articles I, III, IV, V, VI, VII, X, and Appendix A to Revise the Regulations for Downtown; and to Revise the Zoning Map for Downtown.

The Commission will discuss the demolition provisions of the proposed ordinance for further recommendations to the City Council – for discussion and action

At Mr. Azar’s request, the Commission heard item number 3 out of order.

Mr. Azar said demolition was being discussed since the Commission asked for more time to study it and make recommendations. He compared demolition regulations from the current Ordinance to the proposed version to draw a contrast between them. He said the regulations before the Commission were stronger than the current regulations and as rigorous as those in Historic Districts. Mr. Azar said the updated demolition regulations would include the Jewelry District, which does not have demolition protection. He said the regulations were explicit about the Downtown Design Review Committee (DRC) taking the historic nature of a building into account when considering demolition. The existing regulations discouraged demolition but the DRC could approve it if the applicant could provide suitable alternatives to preserving the building. The proposed regulations include criteria like considering if preservation of the structure would be a deterrent to public safety. The DRC would also consider if the merits of new development outweigh the merits of demolition under the new regulations.

Mr. Azar said demolition requests would require a waiver and new plans for construction would be required with the application. The waiver request would be heard at a public hearing and the DRC would consider the design of new structures and their relationship with the surroundings. The DRC would not approve demolition unless plans for a new building were approved with new construction immediately following demolition. A demolition permit would be issued only after obtaining a building permit for new construction on the site.

Mr. Azar said a site was eligible for demolition if reuse of the site was a permitted use and if there was a finding of no historical or architectural significance of the building. Demolition of a significant building could be authorized if preservation would result in a public safety hazard, if preservation results in an undue financial hardship on the owner or if the merits of new development outweigh the merits of preservation. Mr. Azar said the section on emergency demolition was enhanced. Under previous versions of the Ordinance, the building official could order a building to be demolished if determined to be a safety hazard. Under the proposed regulations, the building official is required to consult with a committee whose members include planning staff, the chair of the DRC and the Fire Marshall to come to a consensus of demolition being the best alternative.

Mr. Azar said the City Council should deal with the issue of demolition by neglect as it is enforced by the building code, which has adequate mechanisms to fix degraded architectural features. Mr. Azar said the National Register Historic District could not definitively determine if a building was historically significant as buildings outside the district could also be historically significant. He said the DRC should rely on a number of sources to determine historical significance.

Mr. Azar said the City Council and the CPC would need to determine if the DRC could approve demolition of a structurally sound, historic building. Mr. Cortes said it would be difficult to make that judgment. A discussion on demolition regulations ensued. Mr. Azar said the DRC's demolition application requires a significant amount of documentation that would give the DRC the information required to make a decision.

Ms. Church said the regulations would need to be in place for a few years to determine their effectiveness. She said one of the requirements for demolition was the testimony of an expert hired by the applicant and asked what type of expert would be required. Mr. Azar said it would need to be an expert in the field of appraisal or real estate. Mr. Durkee said structurally sound historic buildings should be allowed to be demolished after going through an approval process but there were some buildings that should not be demolished under any circumstances.

Mr. Clark Schoettle said there should be a system of peer review to verify claims made by experts hired by an applicant. He said the City should be able to hire its own experts to review claims made by the applicant to create a defensible record. Mr. Schoettle said the demolition regulations did not take the degree of historic significance into consideration. Mr. Azar asked if categorizing buildings into levels of significance would be helpful. Mr. Schoettle said he felt the historic significance of buildings did not factor into the decision making process. Mr. Azar said the DRC would have to make findings relative to preservation and the merits of new construction. Mr. Schoettle asked if language relating to a building's historic significance could be added. Mr. Durkee said some buildings may not be historic, but valuable for their contribution to the streetscape. Mr. Schoettle said the language should be included for the DRC to defend their decisions if appealed. Mr. Cortes asked if the DRC could promulgate their own rules. Mr. Azar said that was possible. Mr. Cortes said he would be comfortable if the DRC developed criteria for demolition review.

Mr. Andrew Teitz said the scope of the DRC's function under state law could be classified as development plan review, making it difficult to deny applications. He said the Historic District Commission (HDC) had preservation expertise and should review demolition applications. The DRC should review new construction and alterations. He said the regulations used for mill district buildings could be used to differentiate between alteration and demolition. Mr. Azar said the DRC could request the HDC's nonbinding opinion if required. He said the HDC could not review demolition, as a new historic

district would have to be created for review since it cannot act outside the jurisdiction of a historic district.

Mr. John Garrahy said demolition regulations should not be stringent enough to be considered a regulatory taking. He said the regulations should be clear in defining means to evaluate demolition decisions. He said the removal of surface parking as a permitted use Downtown could be difficult for property owners as parking is required Downtown and some buildings may be difficult to maintain.

Mr. Azar said the Commission could make further recommendations or take no action. Mr. Cortes asked if peer review of experts could be added to demolition regulations. Mr. Azar said that language could be added voluntarily or through an official action. Ms. Ryan made a motion seconded by Ms. Church to recommend to the City Council Committee on Ordinances that language be added that the DRC may, at the applicant's expense, hire experts to opine on the validity of evidence and testimony submitted as part of a demolition application.

MINOR LAND DEVELOPMENT PROJECT

1. Case No. 12-02MI – 49 Seekonk Street (Preliminary Plan Approval)

The applicant is seeking preliminary plan approval to demolish the existing building and construct a new 37 unit apartment building with underground and above ground parking. The applicant is requesting dimensional adjustments for height, density and setbacks. (Wayland, AP 15, Lots 248 and 250 - C-2. Lots 238 and 239 - W-1) – for action

Mr. Azar introduced the project, which was being reviewed as a minor land development plan as it was a residential project that did not require any waivers or modifications. He said the project would require dimensional adjustments for height and dwelling unit density. He said the building did not conform to the front yard setback requirement as the recesses on the façade were deeper than the adjustment that could be granted by the Commission.

Mr. John Garrahy, representing the applicant, said the building would act as a transitional use between the residential and commercial areas in the vicinity and explained the site layout. Mr. Kyle Robinson said the existing building would be demolished and the new building would have underground parking in addition to surface parking. He said the building façade would be set back partly because of the drop off lane in the front of the building. Mr. Garrahy said he felt the feature made the building more attractive and usable as it brought cars in from the street and activated the front of the development. Mr. Azar said the building did not maintain the front yard setback due to the recesses on the façade. He said the recesses could be incorporated if they were not as deep as depicted on the plan. A discussion on the building's design ensued.

Mr. Azar said the applicant would be required to reappear before the Commission if they were to seek relief from the zoning board for front yard setback relief. Mr. Cortes asked if the open space provided by the applicant was sufficient for the dimensional adjustments requested. Mr. Azar said the Ordinance provided for a number of amenities that could be granted for dimensional adjustments, which did not need to be for public use. Mr. Garrahy said the applicant was discussing landscaping regulations with the City Forester. Mr. Robinson explained the landscaping plan.

Mr. Durkee asked if the building could be designed as a four story woodframe building as other buildings in the vicinity were not as tall as the proposed structure. Mr. Garrahy presented a picture of a nearby five story building. Mr. Durkee said the proposed height was adequate in relation to the building.

Mr. Manjrekar presented the DPD's staff report, which found the project to be in conformance with the objectives of the Comprehensive Plan and Zoning Ordinance. The DPD recommended that the Commission grant the requested dimensional adjustments for height and dwelling unit density as the applicant was providing underground parking and common open space. The DPD recommended that the Commission make a positive recommendation to the Zoning Board for relief from the front yard setback requirement. It also recommended that final plan approval be subject to a stormwater management plan receiving approval from the City Engineer and the landscape plan receiving approval from the City Forester. Mr. Durkee said the applicant should reappear before the Commission for final plan approval after receiving relief from the Zoning Board.

Mr. Cortes made a motion seconded by Ms. Ryan to approve the plan subject to the DPD's findings of fact and the conditions of approval contained in the staff report. The applicant would be required to appear before the Commission for final plan approval. All voted in favor.

INSTITUTIONAL MASTER PLAN

3. Presentation of Butler Hospital's five year Institutional Master Plan

Adoption of five year Institutional Master Plan for Butler Hospital outlining 5 year plans for development, capital improvements, operations and circulation – for action

Mr. Manjrekar introduced the project. Mr. Walter Dias of Butler Hospital said the primary purpose of the submission was the construction of a new inpatient building for which a certificate of need was granted by the State. A discussion on landscaping and design of the building ensued.

Mr. Manjrekar read out the findings of fact from the DPD staff report, which found the plan to be in conformance with the Comprehensive Plan and contained all the elements required by the Zoning Ordinance.

Mr. Cortes made a motion seconded by Ms. Church to approve the Institutional Master Plan. All voted in favor.

Adjournment

Mr. Cortes made a motion seconded by Ms. Church to adjourn the meeting. All voted in favor. The meeting adjourned at 6:26 pm.

Respectfully Submitted,



Choyon Manjrekar,
Recording Secretary